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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2018 / 2019 SESSION

UCP4612 – CRIMINAL PROCEDURE I

(All Sections / Groups)

24 OCTOBER 2018

Reading Time: 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 4 Questions only.
3. Attempt **ALL** questions in **PART A** and any **ONE** question in **PART B**. The distribution of the marks for each question is given.
4. Students are only allowed to bring in **CLEAN AND ORIGINAL COPY** of the following statutes into the exam venue :
 - i. Criminal Procedure Code; and
 - ii. Penal Code“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

Instruction: Read the following facts and answer the questions below.

On the morning of 24 July 2016, at about 12.20 a.m. Draco Malfroy and Viktor Krum broke into a Seven Ten Store at Jalan Baru 5, Taman Samarinda in the district of Alor Gajah, Melaka. Draco Malfroy took out a machete and ordered the cashier, Dumbledore to open the cash register at the counter. Upon seeing that the cash register was empty, Viktor Krum grabbed Dumbledore's bag from the rack behind the counter. Draco Malfroy and Viktor Krum then ran out and saw a white Myvi car parked in front of the store. Draco Malfroy pointed his machete towards the driver, Severus Snape and ordered him to get out of the car. The two men fled with the car.

About 10 minutes after the incident, a police patrol car driven by Constable Harry passed by. Dumbledore and Severus Snape related the incident to Constable Harry who then contacted the Police Control Centre (PCC) to inform about the incident. He told the PCC to look for a white Myvi bearing registration number MY888 which was driven by the robbers.

At Jalan Ayer Keroh, Melaka, Sergeant Remus and Corporal Wesley were on patrol. They saw a car which matched the registration number as alerted by the PCC. Sergeant Remus followed the car and tried to overtake it. The car made a sudden turn and stopped nearby the road. Two men bolted out of the car and were chased by Sergeant Remus and Corporal Wesley. However, they only managed to apprehend one person - Draco Malfroy. They brought him back to the place where they left their car. Sergeant Remus conducted a search on the car and found a machete on the back seat. He did not find any stolen item inside the car. Sergeant Remus instructed Corporal Wesley to seize the machete and the car while he took Draco Malfroy to the police station. At the police station, Sergeant Remus lodged a report in relation to the arrest.

Draco Malfroy was then questioned by the investigating officer, Inspector Diggory for about 15 minutes before his statement was formally recorded. When answering the question, Draco Malfroy had said the following, *"I throw the bag in an old shop near Jalan Ayer Keroh. I can show it to you"*. Inspector Diggory made a police report (Report No. 123/16) in relation to the statement and put his signature on it.

On 25 July 2016, Draco Malfroy led Inspector Diggory together with a police party to a shop lot near Jalan Ayer Keroh. He pointed towards a green old shop and told Inspector Diggory that the stolen bag was thrown into the shop through a broken window. As the shop was unoccupied, Inspector Diggory ordered his men to break open the shop's door. They entered the shop and found the stolen bag which contained items such as identity card, cash amounting to RM400.00 and a Samseng hand phone. They also found in another room a few motorcycle parts which were suspected to be stolen. Inspector Diggory ordered his men to seize all the items found and a police report (Report No. 124/16) was lodged pursuant to the seizure.

Draco Malfroy was charged under section 392 read with section 397 of the Penal Code for committing robbery on Dumbledore.

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PART A: Attempt ALL questions.

QUESTION 1

- (a) Draco Malfroy was charged at the Sessions Court at Alor Gajah.

Discuss whether the said Sessions Court has the local and original jurisdiction to hear the case. (12 marks)

- (b) Distinguish the following:

- (i) Consent and Sanction; (5 marks)
- (ii) Information and Complaint; (5 marks)
- (iii) Transfer and Transmission. (3 marks)

(Total: 25 Marks)

QUESTION 2

- (a) The defence counsel wishes to transfer the case from the Sessions Court at Alor Gajah to the Sessions Court at Melaka Tengah.

Advise him on the possibility of making such an application and the procedure to do so. (10 marks)

- (b) Advise Inspector Diggory on the legality of the search and seizure conducted at the vacant shop. (15 marks)

(Total: 25 Marks)

QUESTION 3

- (a) Draco Malfroy told his counsel that he was tortured in the police lock-up as the police wanted to record his confession. He had lodged a police report regarding this matter but he was sceptical whether the police would take any action.

Analyse the reform that has been made to the Criminal Procedure Code to rectify a complainant concerns over his police report. (8 marks)

- (b) There are four methods of body search under the Criminal Procedure Code.

- (i) Differentiate between an intrusive search and an intimate search. (4 marks)
- (ii) Explain the procedure for an intrusive search on a woman. (13 marks)

(Total: 25 Marks)

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PART B: Attempt ONE question ONLY.**QUESTION 4A**

- (a) Dumbledore only lodged a formal written report 3 days after the incident.

Advise the prosecution on the legality of the police investigation. (7 marks)

- (b) The prosecution has preferred a second charge under section 392 against Draco Malfroy for committing robbery on Severus Snape.

Draft the said charge. (6 marks)

- (c) The defence has raised a preliminary objection that the joint trials of the two charges are illegal and bad in law rendering the trial a nullity.

As the prosecution, submit a reply to the said objection. (12 marks)

(Total: 25 Marks)

OR**QUESTION 4B**

- (a) The prosecution has decided to amend the charge to section 394 as it transpired during the trial that Draco Malfroy had caused an injury to Severus Snape.

Draft the amended charge against Draco Malfroy. (6 marks)

- (b) Inspector Diggory's investigation revealed that the vacant shop belonged to one Rubeus Hagrid. Inspector Diggory has contacted Rubeus Hagrid and has ordered him to the police station for recording a witness statement.

Rubeus Hagrid seeks your advice in relation to his rights during the recording of statement. (9 marks)

- (c) Advise the defence counsel on the admissibility of Report No. 123/16 and Report No. 124/16 which have been lodged by Inspector Diggory.

(10 marks)

(Total: 25 Marks)

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